THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.20364 of 2001

Dated : 01.08.2007

Between:

P.Hanumantha Rao S/o Seshaiah and another.

..... PETITIONERS

And:

The Government of A.P., rep., by Vice Chairman
And Housing Commissioner, A.P.Housing Board,
Gruhakalpa, Nampally, Hyderabad and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.20364 of 2001

ORDER:

This writ petition is filed seeking a Mandamus declaring the notices dated 17.09.2001 and 18.09.2001 issued by the second respondent as illegal, arbitrary and violative of Regulations 23(2) of the A.P. Housing Board (Allotment, Management and Sale of Middle Income Group) House Regulations, 1975 (for short 'the Regulations") and consequently direct the respondents to furnish particulars with regard to final cost of houses of the petitioners bearing MIG.I 66 and MIG II 71 of Phase-I, Bhimavaram.

Brief facts are that pursuant to the notification issued by the A.P. Housing Board for allotment of HIG, MIG and LIG houses at

Bhimvaram and Narasapur in West Godavari District, petitioners have applied for allotment of the houses and accordingly, MIG houses were allotted to them under hire purchase agreement. Initially, the cost of MIG house was fixed at Rs.2,40,000/- and the cost of LIG house was fixed at Rs.1,25,000/-. But subsequently, the same was enhanced to Rs.3,31,000/- and Rs.1,79,000/-, respectively. Petitioners paid the initial deposit of 30 percent of the cost and subsequently they were granted instalments to pay the remaining cost. However, in the year 2001, the cost of MIG house was enhanced to Rs.4,10,200/- and the cost of LIG house was enhanced to Rs.2,94,300/-. On the basis of the said enhancement, the second respondent herein issued notices dated 18.09.2001 and 17.09.2001 directing the petitioners to pay the differential amounts. Aggrieved thereby, this writ petition is filed.

Detailed counter-affidavit has been filed on behalf of the respondents.

Heard the learned counsel for the petitioners and the learned Standing Counsel appearing on behalf of the respondents.

The only ground urged by the learned counsel for the petitioners is that the housing board has every right to enhance the cost of the houses, but as provided for under Regulation 23(2) of the Regulations, notice demanding the amount to meet the escalation in the cost shall be issued only by the Vice Chairman and Housing Commissioner and in the instant case, the Executive Officer-second respondent herein, without prior intimation by the Vice Chairman about the escalation of the cost has issued the notice directing the petitioners to pay the differential amount.

On a perusal of Regulation 23(2) of the Regulations it is clear that it shall be open to the Vice Chairman and Housing Commissioner to call upon the allottee through a notice to pay particular amount over and above the initial deposit or instalments already paid or payable to meet the escalation in the cost and price. Therefore, it cannot be inferred that

the Vice Chairman and Housing Commissioner alone has to issue the said demand notice calling upon the petitioners to pay the enhanced or differential amount. In fact, in the reference stated in the impugned notices, note orders dated 09.04.2001 and revised orders dated 03.08.2001, issued by the Vice Chairman and Housing Commissioner were mentioned, and on the basis of the same only the second respondent issued the impugned notices. Hence, it cannot be said that the impugned notices are contrary to Regulation 23(2) of the Regulations. However, as the petitioners have come forward to pay the differential amount, provided time is granted, this Court directs the petitioners to pay the differential amount within a period of four weeks from the date of receipt of a copy of this order and the respondents are hereby directed to accept the same, without insisting upon payment of penal interest. However, it is made clear that the respondents are at liberty to collect interest, to which they are entitled.

Subject to the above directions, the writ petition is disposed of. There shall be no order as to costs.

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01.08.2007

Note : Furnish C.C. in one week.

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